

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sandro Pasquali

Application No.: 10/672,945

Confirmation No.: 1566

Filed: September 29, 2003

Art Unit: 2178

For: **SYSTEM AND METHOD FOR
FACILITATING A WINDOWS BASED
CONTENT MANIFESTATION
ENVIRONMENT WITHIN A WWW
BROWSER**

Examiner: PAULA, CESAR B

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under 37 C.F.R. § 41.41(a), this Reply Brief is filed within two months of the Examiner's Answer mailed April 3, 2008 (hereinafter the "Examiner's Answer"). It is believed that no fees are due.

This Brief contains items under the following headings as required by M.P.E.P. § 1208:

- I. Status of Claims
- II. Grounds of Rejection to be Reviewed on Appeal
- III. Argument
- IV. Conclusion

I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 47 claims pending in application.

B. Current Status of Claims

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1 – 47.
4. Claims allowed: None
5. Claims rejected: 1 - 47

C. Claims On Appeal

The claims on appeal are claims 1- 47.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Applicant seeks review of the following grounds of rejection set forth in the Final Office Action having a mailing date of January 8, 2007 (hereinafter the “Office Action”):

Whether claims 1- 47 are properly rejected under 35 U.S.C. § 102(b) as being anticipated by Lemay et al., “Laura Lemay’s Web Workshop JavaScript”, Sams.net, 1996, pp. 10-11, 172-186 (hereinafter “*Lemay*”).

III. ARGUMENT

Since 37 C.F.R. § 41.41 does not specify a format for Reply Briefs, Appellant presents the arguments below in a format organized to counter the Response to Arguments section of the Examiner's Answer rather than to conform to the format for an Appeal Brief, wherein independently argued claims are presented under separate headings. The format of this Reply Brief does not cause claims to be considered together or separately other than as presented in the Appeal Brief. It is believed that this eliminates repetition and is done for the convenience of the Board. Appellant reasserts all the arguments made in Appellant's Brief and respectfully requests that consideration be given to the further arguments below.

The Rejections under 35 U.S.C. § 102(b)

Claims 1- 47 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lemay et al., "Laura Lemay's Web Workshop JavaScript", Sams.net, 1996, pp. 10-11, 172-186 (hereinafter "Lemay"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "The elements must be arranged as required by the claim...." M.P.E.P. § 2131 citing *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). The Examiner has the burden of establishing a *prima facie* case of anticipation. See *In re Skinner*, 2 USPQ2d 1788, 1788-89 (B.P.A.I. 1986) (stating, "[i]t is by now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office.").

In addressing Appellant's arguments as set forth in the Appeal Brief, the Examiner takes the position that:

Regarding claim 1, the Appellant states that Lemay does not describe the production of a window object within a content manifestation environment (page 15, last parag.). The Examiner disagrees because Javascript teaches the display of window frames in a browser (page 11, 172-173, listing1.2). The frame objects are generated and displayed within the browser, thus manifesting the webpages

framed by the frame objects. It is the Examiners view, that window objects do not necessarily mean 'windows', but they are interpreted to mean objects of a window.

Examiner's Answer at page 19, (10) Response to Argument (emphasis in original).

Thus, it appears that the Examiner improperly ignores the meaning of the term “window objects” clearly provided in Appellant's disclosure. In particular, Appellant's specification includes a Glossary explicitly defining a “window object” as follows:

[0035] A window object is a Module or a Layer.

[0036] A Layer is a WWW browser content display section produced within a content manifestation environment (CME) including, but not limited to, any object within an HTML document that may be scaled, dragged, or otherwise operated upon such as an IMG object, a SPAN object, a DIV object, a form element, etc. and which may be associated with program logic such as within a script, etc. A layer has its own properties including, but not limited to, a name, etc. within an HTML rendition model such as those defined by DHTML standards. Additionally, a layer acts independently of other content within a particular HTML document.

[0037] A CME is a controllable WWW browser content display window provided by a WWW browser. For example, a CME is viewed as a dynamic window in which WWW content is normally displayed.

[0038] A Module (also referred to herein as a Window Module) is a layer having (1) a control section, and (2) a related content display section which may be manifested within a CME. A module may be recursively referenced in that a particular module provided in accordance with the present invention may include other modules. In other words, the present invention makes it possible to have window objects within window objects.

Specification at page 10, line 24 – page 11, line 15; Patent Application Publication No. US2004/0093563, page 3, paragraphs [0035] – [0038].

It is well established patent law that such definitions must be considered in interpreting the language of the claims. See MPEP 2111.01(IV) citing *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so "with reasonable clarity, deliberateness, and precision" and, if done, must "'set out his uncommon definition in some manner within the patent disclosure' so as to give one of ordinary skill in the art notice of the change" in meaning) (quoting *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)). “Where

an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.” *Id.* citing *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings").

The Examiner improperly asserts a broad definition of a “window object” throughout the Response to Argument section of the Answer as in the rejection on appeal. Thus, in connection with claim 1, the Examiner takes the position that, as stated above, “window objects” means objects of a window and thereby asserts that Lemay meets the language of claim 1. However, Appellant has carefully and meticulously defined the term “window object”, a definition that the Examiner is not free to put aside or ignore. Having failed to demonstrate that Lemay satisfies the language of the claim as that language must be interpreted according to the explicit definitions set forth in Appellant’s specification, the rejection of the claims under 35 U.S.C. § 102(b) as being anticipated by Lemay et al. is improper and should be overturned.

IV. CONCLUSION

For the reasons outlined above and in Appellant’s Brief, Appellant respectfully requests that the Board overturn the current rejections of claims 1-47. Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. P006C1C2C1/10606085 from which the undersigned is authorized to draw and please credit any excess fees to such deposit account.

Dated: June 3, 2008

Respectfully submitted,

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